

IN THE MATTER OF

: BEFORE THE

STEVENS FOREST  
ASSOCIATES, LLC

: HOWARD COUNTY

: BOARD OF APPEALS

Petitioner

: HEARING EXAMINER

: BA Case No. 08-001S

.....

**DECISION AND ORDER**

On May 5, 2008, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Stevens Forest Associates, LLC, for a variance to erect a temporary 8'-high by 8'-wide, 64-square foot freestanding identification sign 30 feet from the Stevens Forest Road right-of-way and 10 feet in height rather the 64-foot setback required in relation to the total sign area and the 15-foot setback required in relation to the sign height, for a commercial use in a NT (New Town) Zoning District, filed pursuant to Section 3.513, Title 3, of the Howard County Code (the "Sign Code").

The Petitioners certified that notice of the hearing was advertised and that the subject property was posted as required by the Howard County Code. I viewed the subject property as required by the Hearing Examiner Rules of Procedure.

The Petitioner was not represented by counsel. Suzanne Graham testified in favor of the petition. No one appeared in opposition to the petition.

**FINDINGS OF FACT**

Based upon the preponderance of evidence presented at the hearing, I find the following

facts:

1. The generally subject property is owned by Exxon Mobile Corporation. It is located in the 6<sup>th</sup> Election District and referenced as Tax Map 36, Block 10, Parcel 3001B and has a street address of 5901 Stevens Forest Road. (the "Property"). The 74,052-square foot, generally rectangular shaped Property is located at the southeast intersection of Stevens Forest Road and Robert Oliver Place.
2. To the Property's north, the NT zoned site is improved with a one-story building occupied by Bangkok Gardens. To the west, the R-zoned site is improved with the multi-family buildings comprising The Verona@Oakland Mills development. To the south, the NT-zoned site is improved with a two-story commercial building. To the east, the NT-zoned site is improved with a one-story interfaith center.
3. The Petitioner is requesting a retroactive variance to erect a temporary 8'-high by 8'-wide, 64-square foot freestanding identification sign 30 feet from the Stevens Forest Road right-of-way and 10 feet in height rather the 64-foot setback required in relation to the total sign area and the 15-foot setback required in relation to the sign. The sign is constructed on a concrete base. The upper area contains contain the words "Meridian Square" at the top and depicts a rendering of the project to be constructed in the center, with contact information in the bottom section.
4. The sign runs parallel to Stevens Forest Road and is oriented in north-south direction, although the petition plan indicates that it faces east-west and parallel to Robert Oliver Place.
5. The speed limit on Stevens Forest Rd. is 30 miles per hour.
6. The proposed sign is blocked by hedges, trees, and street signs, which limits northbound motorists' view of the sign until about 50 feet away from the sign face.
7. Ms. Graham testified that the sign has attracted several calls. She did not introduce

additional evidence or testimony about the sign or its location.

8. The staff report states that the higher elevations of the northern and southern properties interfere with the visibility of the sign.

### **CONCLUSIONS OF LAW**

Section 3.513(b) of the Sign Code permits the Board of Appeals to grant variances from the provisions of the Sign Code where certain determinations are made. Based upon the foregoing Findings of Facts, I conclude as follows:

**1. That there are unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle.**

The higher elevation of the adjoining northern and southern properties are unique physical conditions, which lead to practical difficulty and unnecessary hardship in complying strictly with the setback requirements of the Sign Code, in accordance with Section 3.513(b)(1).

**2. Or, that there are obstructions, such as excessive grade, building interference, structures or landscaping on abutting property or properties which seriously interfere with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle.**

The presence of signs and trees along this section of Stevens Forest Road impedes motorists' view of a complying sign, causing practical difficulties and unnecessary hardship in complying with this subtitle. The Petitioner did not create these conditions, in accordance with Section

3.513(b)(2).

**3. Or, that there are historical, architectural, or aesthetic characteristics which shall be considered.**

There are no historical, architectural, or aesthetic characteristics of the Property to be considered under section 3.513(b)(3).

**4. That the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition.**

The proposed sign will be generally separated from vicinal commercial and residential properties and will not result in a dangerous traffic condition.

**5. That the requested variance is the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of this subtitle.**

The proposed sign is a reasonable use. I therefore conclude the sign is the minimum necessary to afford relief and can be granted with substantial impairment of the intent, purpose and integrity of the Sign Code, in accordance with Section 3.513(b)(5).

**6. That such practical difficulties or hardships have not been created by the applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.**

The practical difficulties are a result of unique Property conditions, vicinal obstructions, and highway conditions. The Petitioner did not create these conditions, in accordance with Section 3.513(b)(6).

**ORDER**

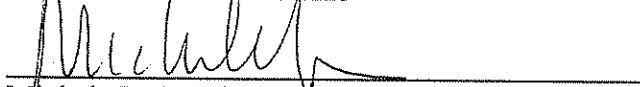
Based upon the foregoing, it is this 2<sup>nd</sup> day of June 2008, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of Stevens Forest Associates, LLC for a variance to construct a temporary 8'-high by 8'-wide, 64-square foot freestanding identification sign 30 feet from the Stevens Forest Road right-of-way and 10 feet in height rather the 64-foot setback required in relation to the total sign area and the 15-foot setback required in relation to the sign in a NT (New Town) Zoning District is hereby **GRANTED;**

**Provided, however, that:**

1. The variance shall apply only to the uses and structures as described in the petition and plan submitted, and not to any other activities, uses, structures, or additions on the Property.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**

  
Michele L. LeFaivre

Date Mailed: 6/3/08

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.